IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.1092 of 2007

Vimala .. Petitioner

Vs

1. State, rep. by the Secretary
to Government,
Prohibition and Excise Department,
Fort St. George, Chennai 600009.

2. The District Collector & District
Magistrate, Karur District
Karur. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus calling for the records of the second respondent, pertaining to the order made in Cr.M.P.No.4/2007 dated 04.06.2007 in detaining the detenue under the Tamil Nadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu, namely Thiagu alias Thiagarajan, son of Marimuthu alias Manickam, who is detained in Central Prison, Trichirappalli and set him at liberty as stated therein.

For Petitioner : Mr.O.S.Thilak Pasumbadiar

For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

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ORDER

(Order of this Court was made by P.D.DINAKARAN,J.)

The petitioner, wife of the detenu, Thiagu @ Thiagarajan, aggrieved by the order of detention dated 4.6.2007, passed by the second respondent, dubbing her husband as a Goonda under the provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum

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Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), has filed this petition seeking to issue Writ of Habeas Corpus calling for the records relating to the order of detention dated 4.6.2007 passed in Cr.M.P.No.4/2007, to quash the same and to direct the respondents to produce the detenu, now confined at Central Prison, Tiruchirappalli, before this Court and set him at liberty.

2. On the basis of the complaint lodged by one Kumar alias Rathinasabapathi, that on 15.4.2007 at about 10.00 hours, the detenu along with another robbed his bag and when he raised hue and cry, the detenu and another threatened him and brandished their knives, creating panic situation in that area and fled from the scene along with the bag, a case was registered in Crime No.687/2007 on the file of Karur Town Police Station, for the offence punishable under Section 392 IPC. During investigation, the detenu was arrested and sent to Court for judicial remand.

3. The second respondent, taking note of the above case as a ground case and finding that there are fifteen adverse cases, viz. in Crime Nos.585/2000, 640/2000, 678/2000, 696/2000, 729/2000, 730/2000, 731/2000, 733/2001 on the file of Thanjavur Taluk Police Station, 335/2003, 600/2003, 72/2004, 110/2007 on the file of Thanjavur East Police Station, 13/2004 on the file of Thanjavur University Police Station and 2/2007 and 31/2007 on the file of Vallam Police Station, for offences punishable under Sections 457, 379 and 380 I.P.C., having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in such activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

4. The learned counsel for the petitioner challenges the impugned order of detention dated 4.6.2007 on the only ground that the pre-detention representation dated 4.5.2007 sent by the wife of the detenu, has not been considered by the detaining authority before passing the detention order, which vitiates the order of detention.

5. Concededly, the wife of the detenu has made a representation on 4.5.2007 requesting not to detain her husband under the Tamil Nadu Act 14 of 1982 and the detaining authority, while passing the detention order dated 4.6.2007, has not taken into consideration the said representation dated 4.5.2007, which shows the non-application of mind and hence, in our considered opinion, vitiates the impugned order of detention.

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In the result, the impugned order of detention is quashed and the Habeas corpus Petition is allowed. The detenu is directed to be released forthwith, unless he is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sra

To

1. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai 600009.

2. The District Collector & District
   Magistrate, Karur District
   Karur.

3. The Superintendent,
   Central Prison, Tiruchirappalli.

4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St.George, Chennai -9.

5. The Public Prosecutor,
   High Court, Madras.

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SP(CO)
RVL 19.11.2007

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